



NOV 29 2001

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In re Application of MIYAZAWA et al
U.S. Application No.: 09/869,458
Int. Application No.: PCT/JP99/07397
Int. Filing Date: 28 December 1999
Priority Date: 29 December 1998
Attorney Docket No.: 1576.89
For: PROCESSES FOR PRODUCING
ACRYLIC ACID DERIVATIVE

DECISION

This is in response to applicants' "Completion of Filing Requirements--Nonprovisional Application" filed 04 October 2001, which is being treated as a request to correct an inventor's name under 37 CFR 1.182.

BACKGROUND

On 28 December 1999, applicants filed international application PCT/JP99/07397, which claimed priority of an earlier Japan application filed 29 December 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 13 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 June 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 June 2001.

On 26 June 2001, applicants filed national stage papers in the United States. The submission was accompanied by, *inter alia*, authorization to charge the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

On 06 August 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed along with a surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty (30) months from the priority date.

On 04 October 2001, applicants filed the present petition. The petition states that it is accompanied by, *inter alia*, an affidavit from the third named inventor Yutaka Ishii.

DISCUSSION

A review of the application file reveals that the given name of the third inventor is listed in the international application as "Hiroshi" while the given name is listed in the declaration as "Yutaka". In that this is clearly more than a mere typographical error or a phonetic misspelling of the inventor's given name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of \$130.00 as well as statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered and must also set forth that the mistake was an inadvertent error without deceptive intent.

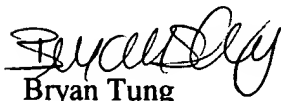
In the present case, applicants have submitted a statement by inventor Ishii which states that the error was due to a translation problem. However, Ishii's statement does not explicitly set forth that the mistake was an inadvertent error without deceptive intent. Furthermore, applicants have provided neither statements from the people with firsthand knowledge of the error nor the requisite petition fee.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182" and must include the appropriate statements and petition fee as discussed above. Extensions of time are available pursuant to 37 CFR 1.136.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.


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